

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 09HD-063

HAWAII

Set Aside to the Department of Hawaiian Home Lands; Issuance of Immediate Management and Construction Right-of-Entry for Proposed Reservoir Site, Lalamilo, Waimea, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-6-01: portion of 11.

APPLICANT:

Department of Hawaiian Home Lands

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Lalamilo, Waimea, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-6-01: portion of 11, as shown on the attached map labeled Exhibit A.

AREA:

2.33 acres, more or less.

The request proposes to withdraw approximately 0.458 acres from the total 2.33 acre parcel, leaving 1.872 acres for its current pasture use.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: RS-10

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7315, Gary L. Davis, Permittee, for pasture purposes.

PURPOSE:

Reservoir Site Addition purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Applicant prepared a Final Environmental Impact Statement (FEIS), which was accepted by the Governor of Hawaii on November 27, 2002. The FEIS was published in OEQC's Environmental Notice on December 8, 2002.

APPLICANT REQUIREMENTS:

That the Department of Hawaiian Home Lands (DHHL) be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at DHHL's own cost;
2. Obtain a letter of concurrence from Gary L. Davis, Permittee, Revocable Permit No. S-7315, concurring to partial withdrawal of pasturelands for set aside to the DHHL; and
3. Process and obtain subdivision at DHHL's own cost.

REMARKS:

At its meeting of February 8, 2002, Item D-1, the Board of Land and Natural Resources approved the issuance of Revocable Permit No. S-7315 to Gary L. Davis for pasture purposes.

At its meeting of May 11, 2007, Item D-6, the Board of Land and Natural Resources approved the issuance of a right-of-entry to DHHL to conduct topographical/ geo-technical surveys for feasibility study and design for its proposed water tank site.

By letter dated December 11, 2009, Kaulana H. R. Park, Chairman of the Hawaiian Homes Commission, requested a set aside of State lands to the Department of Hawaiian Homes Land, for its proposed reservoir site. DHHL proposes to construct a 1.0 MG

reservoir and upon completion, will dedicate the reservoir to the Water Board of the County of Hawaii. The proposed reservoir is necessary to provide an adequate water system for its Lalamilo, Phase 2 subdivision project and will also improve the system serving other residents in the area. (Exhibit B)

According to DHHL, the Water Board of the County of Hawaii has agreed to accept, operate and maintain the reservoir, pipelines and related appurtenances upon completed construction and its satisfactory inspection. To date, the proposed reservoir, and appurtenant facilities is the highest and best uses for the area. No other agencies, interest groups or individuals have requested a lease over the subject area.

The subject parcel, an existing pasture permit, consists of 2.33 acres, of which a .458 acre portion will be withdrawn for set-aside to DHHL. The other remaining portion, approximately 1.872 acres will continue to be used by Mr. Gary Davis for pasture. As there are no provisions for amending a revocable permit, the existing revocable permit (RPS-7315) to Gary L. Davis must first be cancelled, the lands withdrawn and subdivided for the set-aside to DHHL, then a re-issuance of a new revocable permit with a recalculated rent to Mr. Davis.

Ironically, although the total permit area will be lessened by .458 acres, the monthly rent on the new revocable permit to Mr. Davis will reflect an increase from \$13 per month to \$40 per month. The increase is due to the establishment of the Department's minimum rent policy approved by the Board of Land and Natural Resources at its meeting of May 13, 2005, which sets the minimum rent at \$480 per year (or \$40 per month).

DHHL shall be responsible for adequately compensating Gary Davis for any and all damages or expenses relating to the replacement, repair or relocation of improvements caused by the withdrawal and set-aside of the reservoir site to DHHL. The improvements may include but are not limited to stock-proof fencing, a water meter and water pipelines. DHHL shall also be required to pay the document fees incurred by Mr. Davis in the issuance of a new revocable permit for the lands remaining after the withdrawal and set aside of the .458 acre for the reservoir site. DHHL shall not be responsible for paying any increase or difference in rents charged to Mr. Davis in the issuance of a new revocable permit.

On January 4, 2010, various governmental agencies and interest groups were solicited for comments. All respondents did not have any comments or objections to the request.

AGENCIES	COMMENTS
County of Hawaii	
Fire Department	No comments
Planning Department	No comments
Police Department	No comments
Public Works	No comments
Department of Water Supply	No objections

State of Hawaii	
DLNR-Historic Preservation	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the withdrawal and subdivision of approximately 0.458 acres from Parcel 11, which is encumbered under Revocable Permit No. S-7315, subject to the following:
 - A. DHHL shall be responsible for adequately compensating Gary Davis for any and all damages or expenses relating to the replacement, repair or relocation of improvements caused by the withdrawal and set-aside of the reservoir site to DHHL. The improvements may include but are not limited to stock-proof fencing, a water meter and water pipelines;
 - B. DHHL shall also be required to pay the document fees incurred by Mr. Davis in the issuance of a new revocable permit for the lands remaining after the withdrawal and set aside of the .458 acre for the reservoir site.
 - C. DHHL shall not be responsible for paying any increase or difference in rents charged to Mr. Davis in the issuance of a new revocable permit;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Hawaiian Home Lands, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

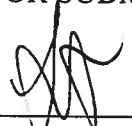
- C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of an immediate management and construction right-of-entry to the Department of Hawaiian Home Lands, its consultants, contractors and/or persons acting for or on its behalf, for the construction of a water reservoir and related purposes, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current construction right-of-entry form, as may be amended from time to time;
 - B. The Department of Hawaiian Home Lands shall be responsible for Chapter 343, HRS compliance and all costs associated therewith;
 - C. DHHL shall be responsible for adequately compensating Gary Davis for any and all damages or expenses relating to the replacement, repair or relocation of improvements caused by the withdrawal and set-aside of the reservoir site to DHHL. The improvements may include but are not limited to stock-proof fencing, a water meter and water pipelines;
 - D. The term of this management and construction right-of-entry shall commence upon date of this Land Board action and shall expire upon the issuance of the subject set aside document; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

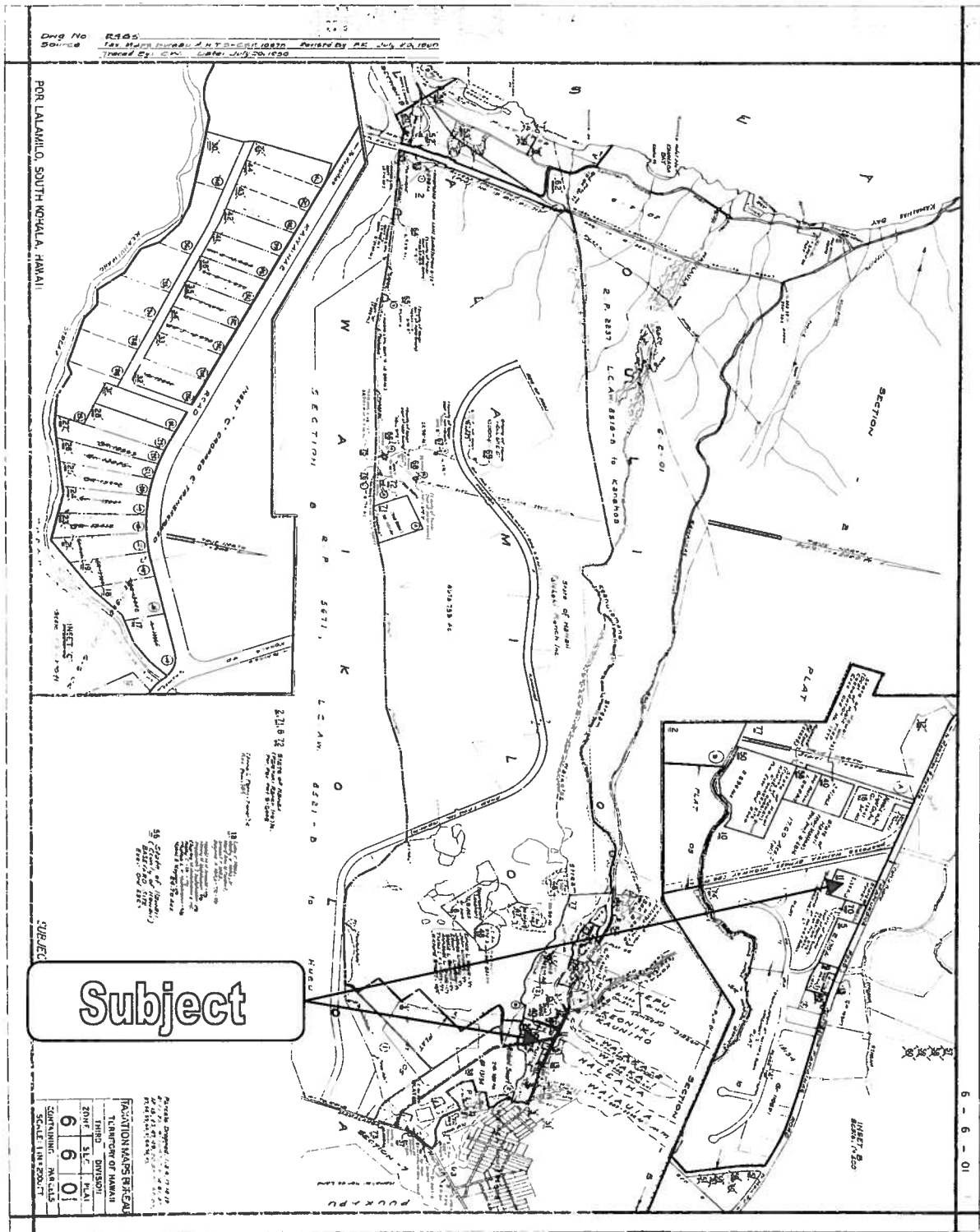
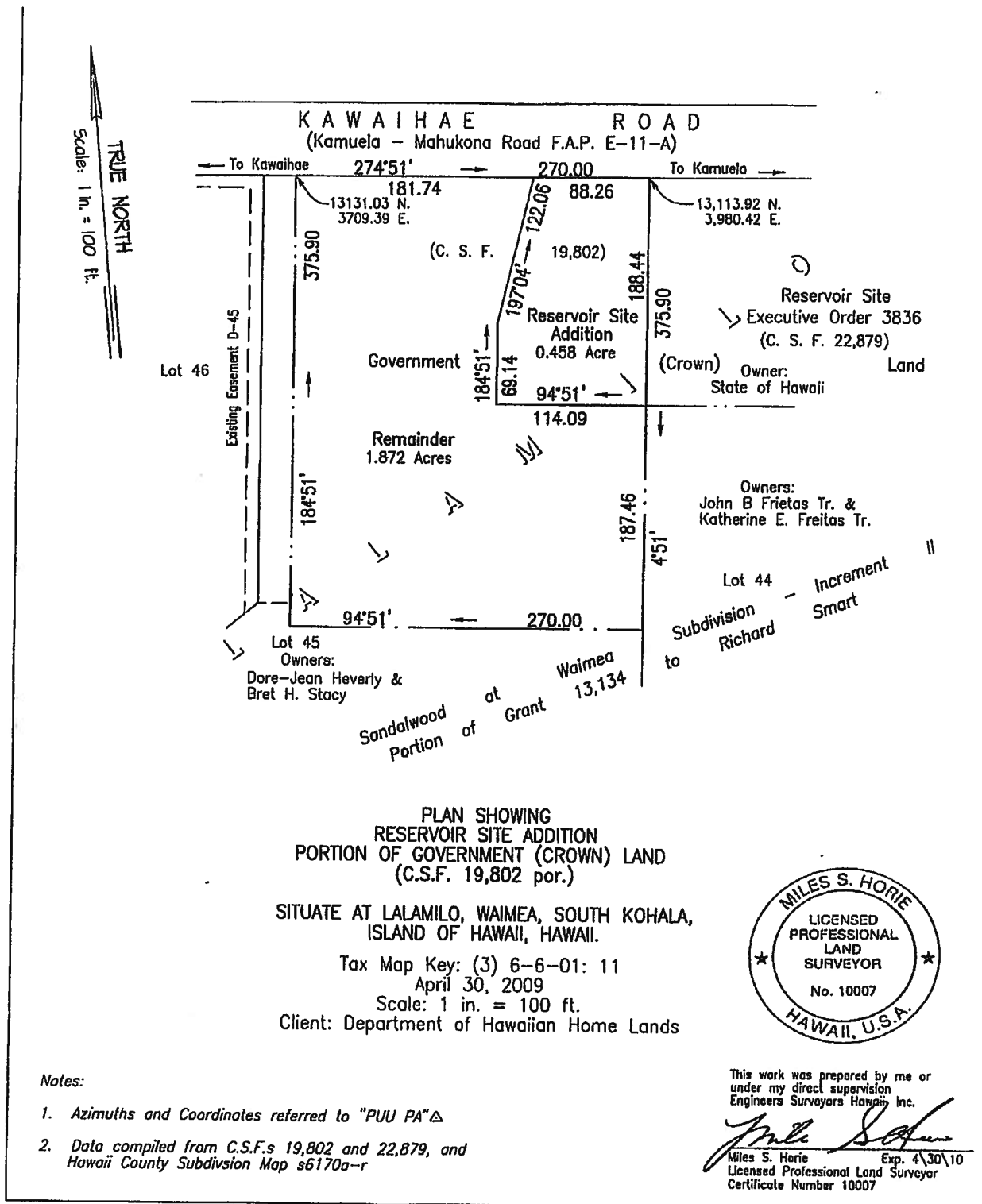


EXHIBIT A



Honolulu, Hawaii
56-45

ENGINEERS SURVEYORS HAWAII, INC.
CIVIL ENGINEERS ~ LAND SURVEYORS ~ CONSTRUCTION MANAGERS

900 Halekauwila Street

EXHIBIT A

February 11, 2010

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



KAULANA H. R. PARK
CHAIRMAN
HAWAIIAN HOMES COMMISSION
ANITA S. WONG
DEPUTY TO THE CHAIRMAN
ROBERT J. HALL
EXECUTIVE ASSISTANT

2009 DEC 15 P 1:19

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P.O. BOX 1879
HONOLULU, HAWAII 96805

December 11, 2009

To: Laura H. Thielen, Chairperson
Department of Land and Natural Resources

From: Kaulana H. R. Park, Chairman
Hawaiian Homes Commission

Re: Reservoir Site Addition
TMK (3) 6-6-01: 11
Lalamilo, Waimea, South Kohala, Island of Hawaii, Hawaii
Request for Set-Aside Land and Construction Right-of-Entry to DHHL

The Department of Hawaiian Home Lands (DHHL) is requesting a set-aside of land and construction right-of-entry to DHHL for a portion of TMK (3) 6-6-01: 11 for the purpose of a reservoir site addition. The description and metes and bounds for the proposed reservoir site addition are enclosed. DHHL will construct a 1.0 MG reservoir and upon completion, will dedicate the reservoir to the County. The proposed 1.0 MG reservoir is necessary to provide an adequate water system for our Lalamilo, Phase 2 subdivision project and will also improve the system serving other residents in the area.

Should you have any questions, please contact Royden Ishii, Land Development Division project manager at 620-9278 or Larry Sumida, division administrator, at 620-9271. We look forward to hearing from you.

copy: Mr. Wesley Matsunaga
Land Agent, DLNR
P.O. Box 936
Hilo, HI 96721

EXHIBIT B